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DEPARTMENT OF STATE

January 5, 1960 8832

Memorandum of Conversation

DATE: January 5, 1960

SUBJECT: Shatt-el-Arab Dispute

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PARTICIPANTS: Mr. Brice Clagett, Attorney with Covington & Burling
Mr. A. L. Atherton, Iraqi Desk, NE
Mr. Grant E. Mouser, Officer in Charge, Iranian Affairs, GTI

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Mr. Clagett said that in view of the fact that Mr. John Laylin of Covington & Burling has been retained by the Iranian government to advise it on the legal aspects of the Shatt-el-Arab dispute with Iraq, he would like to get background information on the dispute and any ideas the Department might have as to possible solutions. Before discussing this matter with Mr. Clagett, Messrs. Mouser and Atherton told Mr. Clagett that any ideas they might present were their own and did not represent the position of the Department or of the United States government. The official United States position was that this was a controversy between two friendly nations and that a solution should be found through bilateral talks between those two countries.

The ensuing discussion ranged over all aspects of the Shatt dispute, including the origins and history of the dispute and the background to the present flare-up. It was generally agreed that the goals of the two countries were irreconcilable and would remain so into the foreseeable future; a solution, therefore, lay in attempting to find some modus vivendi. Mr. Clagett said that it was the tactics leading to and the nature of the modus vivendi which interested his firm particularly. He pointed to the compulsory conciliation clause contained in Article VI of the Treaty for the Pacific Settlement of Disputes Between Iraq and Iran which was signed at Tehran July 24, 1937. Mr. Clagett said that he thought that if either country could be persuaded to invoke this clause of their treaty, this might afford a means by which negotiations could begin without loss of face on either side. Mr. Atherton and Mr. Mouser agreed that this seemed promising.

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Personally speaking, Mr. Mouser said that Iran had now officially announced its intention to claim the thalweg as the boundary. In view of this public stand in conflict with the 1937 Shatt-el-Arab treaty, it would be difficult for Iran to accept anything short of concessions, apparent or real, by Iraq on the problems of Khosroabad and joint administrative control. While it was doubtful that Iran would renounce the thalweg as a goal, it might be persuaded in this way to put its claim on the shelf in the interests of achieving a modus vivendi. Mr. Atherton agreed that such an approach within the framework of the 1937 treaty might offer the best hope of reaching a modus vivendi. Iraq had an existing treaty advantage, however, and its attitude towards negotiations would undoubtedly be influenced by this circumstance. In this connection, Mr. Atherton pointed out that, contrary to Mr. Clagett's impression (gained in part from conversations with the Iranian Ambassador in Washington), the Iraqis were basing their position on the 1937 treaty and did not desire to see the treaty abrogated. Mr. Atherton also discussed the inherent instability of the present Iraqi situation and the difficulties that this created for a moderate man such as the present Iraqi Foreign Minister. There was general agreement that both Foreign Ministers were moderate and reasonable men and that if the matter were left to them, some solution could probably be found.

Mr. Mouser promised to provide Mr. Clagett with a copy of the latest Iranian government statement on the dispute and Mr. Atherton agreed to send to him the most recent Iraqi official statement. Mr. Clagett thanked Messrs. Mouser and Atherton for their assistance and he reiterated his understanding that the discussion was of an off-the-record, background nature.

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